

Appendix Tab C

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 - - -
4 STANLEY M. KACZMORSKI and)
5 CARMEN CUPELLA,)
6 Plaintiffs,)
7 vs.) Civil Action No.
8 OFFICE OF THE CONTROLLER OF)
9 ALLEGHENY COUNTY and CHELSA)
10 WAGNER,)
11 Defendants.)
12 - - -
13 Deposition of JOSEPH L. ABBOTT
14 Monday, October 28, 2013
15 - - -
16 The deposition of JOSEPH L. ABBOTT, called as a
17 witness by the Plaintiff Carmen Cupelli, pursuant to
18 notice and the Federal Rules of Civil Procedure
19 pertaining to the taking of depositions, taken before
20 me, the undersigned, Eugene C. Forcier, Stenographer
21 Commissioner in and for the Commonwealth of
22 Pennsylvania, at the Law Offices of Ira Weiss,
23 445 Fort Pitt Boulevard, Suite 503, Pittsburgh,
24 Pennsylvania 15219, commencing at 9:38 o'clock a.m.,
25 the day and date above set forth.

20 - - -
21 COMPUTER-AIDED TRANSCRIPTION BY
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23 PITTSBURGH, PENNSYLVANIA
24 412-281-0189
25 - - -

1 employee and, yes, I was paid by the campaign.

2 Q So you were paid by the campaign?

3 A Correct.

4 Q And then did you conduct those interviews
5 with Martin Schmotzer?

6 A Correct.

7 Q And who is he?

8 A He is a friend of the Wagner family;
9 someone who had worked with the campaign in a
10 volunteer capacity, and had served as sort of an
11 advisor, I guess, to the campaign.

12 Q In a volunteer capacity?

13 A To start, and then he was paid a sort of a
14 consultancy fee at the end.

15 Q And, do you know if he was planning to work
16 at the Controller's Office under Miss Wagner?

17 A I understand there were some discussions
18 between the two, but I was not privy to them.

19 Q Okay.

20 A The details of those discussions.

21 Q How did you arrive at that understanding?

22 A Through a conversation with Chelsa, you
23 know, it was under consideration, you know, that was
24 sort of an evolving process where I think she was
25 considering, you know, many different people that she

1 knew, who may be beneficial for her to hire.

2 But ultimately, he was not hired by the
3 Controller's Office.

4 Q Do you know what position, if any, he was
5 being considered to be hired for?

6 A I had heard that he may be hired as an
7 advisor, or the Deputy Controller, but ultimately, he
8 was not hired.

9 Q Now, did you and Mr. Schmotzer conduct
10 interviews of employees, at Miss Wagner's direction?

11 A Yes.

12 Q What did she ask you to do?

13 A Basically, I guess, I think some
14 perspective is -- and history is important here.
15 After winning the election, we had requested,
16 basically, a -- job descriptions for all of the
17 employees.

Sometime before the election, perhaps a month, we received an employee roster that was just names and titles. Those titles were sort of vague, and were difficult for us to discern exactly what the duties of those positions were, from the titles.

23 So we had asked for job descriptions, and
24 those were not readily available at the time we asked
25 for them, right after the election in November 2011.

1 Because of the nature of that, and having,
2 you know, not been -- had much interaction with the
3 Controller's current staff, Mark Flaherty's staff,
4 we -- Chelsa thought it was important to gain some
5 perspective on what different duties were being
6 performed by people within the office.

7 From that point, right after the election,
8 we had get with Guy Tumolo, who was Mark Patrick
9 Flaherty's Deputy Controller. He had, basically, said
10 that those job descriptions were not readily
11 available.

12 So we -- Chelsa had decided that we would
13 conduct some interviews with Mark Flaherty's
14 administrative staff, and then in what was called, I
15 think, the administrative division, as well as the
16 Assistant Deputy Controllers, and their managers, the
17 managers that were directly underneath them, so that
18 would be in auditing, payroll, accounting and
19 information systems.

20 Q Okay.

21 So when did you meet with Mr. Tumolo?

22 A We met with Mr. Tumolo after the election,
23 but before the interview started, I can't remember the
24 exact date.

25 Q That probably would be in early to mid

1 November 2011?

2 A Yeah, that sounds right.

3 Q Okay. When he said the job descriptions
4 weren't readily available, did he say they didn't
5 exist?

6 A I can't remember the exact conversation,
7 but that is what we could discern, was that there were
8 not updated, and/or relevant job descriptions at that
9 time.

10 And I believe, when we did receive the job
11 descriptions, they were dated some point after that
12 first meeting; that they had been created, or updated.

13 Q So you received them at some point?

14 A Yes, we did. We did receive a -- we
15 received an initial binder, that was given to
16 Mark Patrick Flaherty in 2003 by Dan Onorato's staff,
17 and that contained some job descriptions, but we were
18 told they were not current.

19 And then sometime after that, we did
20 receive one binder that contained updated job
21 descriptions, but that was right before we started the
22 interviews.

23 So the interviews had already been
24 scheduled.

25 Q Okay. So you received the updated job

1 descriptions after the interviews were scheduled, but
2 before they started?

3 A Correct.

4 Q Okay.

5 And, did you have any discussions, or did
6 you witness any discussions with Mr. Tumolo, about the
7 functions that were performed by various employees at
8 the Controller's Office?

9 A I believe so.

10 You know, he did give us some direction on,
11 for instance, an employee that was titled the office
12 manager, actually served the duties of Mr. Tumolo's
13 assistant.

14 So -- and, there were -- I can't recall
15 exactly what we talked about, but there were some
16 general discussions in initial meetings with
17 Mr. Tumolo about the different roles that different
18 people played within the office.

19 Q Do you remember that first meeting with
20 Mr. Tumolo, discussing anything about Carmen Cupelli?

21 A I don't believe so.

22 I don't believe that that was one of the
23 positions that we were initially discussing.

24 Q Okay.

25 Do you recall at what positions you were

1 little that you could discern about those positions
2 from that research. And I would call that research
3 extensive.

4 So, you know, part of our job was to try
5 to, you know, figure out exactly what the day-to-day
6 works of these positions were, and then also to get
7 inputs.

8 So part of this process of gathering
9 information about -- from employees, was not to make
10 judgments about the quality of their work, but to
11 learn about what they did, and then also, let -- you
12 know, get basically their insights into what they
13 thought was being done well, what could be done
14 better.

15 Q So, before these informational sessions
16 were scheduled, were you aware of Miss Wagner
17 expressing any desire to restructure the office, or
18 eliminate any positions?

19 A I can't -- I can't recall exactly when we
20 talked about such a process, but there certainly was a
21 desire from the Controller that had been expressed to
22 me, I can't recall if it was before or after the
23 interviews, that she wanted to take some different
24 directions than what had been done, to take a more
25 active approach towards some of the bigger issues that

1 were facing county government, that may not have been
2 covered by an audit, or by the accounting group, or by
3 IT.

4 So within the administrative staff to look
5 at some bigger projects.

6 For instance, I will give you an example.

7 Mark Patrick Flaherty had dedicated a significant
8 amount of time toward research around Marcellus shale
9 drilling at the airport, and looking at other places
10 within the county that would be. I mean, significant
11 effort, there were multiple employees assigned this
12 task.

13 And that was not an interest, so that was
14 not something that we thought would be beneficial, as
15 nonexperts in the field, or -- so that's an example of
16 something where, you know, significant effort was put
17 in by Mark Patrick Flaherty into that area, but
18 was not necessarily a policy area that we were looking
19 to dedicate such resources.

20 Q All right.

21 So, before these informational sessions
22 took place, were you directed to talk to these people
23 with an eye toward deciding whether they should remain
24 employed?

25 A No.

1 Q Did you have kind of a script or an outline
2 of questions to ask during these informational
3 sessions?

4 A We had a broad agreement on what we would
5 ask.

6 So, for instance, we would ask someone's
7 title, we would ask when they started in the
8 Controller's Office, we would ask what other duties
9 they may have performed prior to their current
10 position, within the Controller's Office.

11 We would maybe ask some follow up on what
12 their other background was, if they were new in the
13 Controller's Office or not, you know, just basic
14 resume questions sort of.

15 And when we would ask, you know, kind of
16 what your day-to-day duties were, what sort of areas
17 within the office you oversaw, and then we would get
18 into the more sort of subjective part of the
19 interview, for their questioning, asking them, you
20 know, what they liked about where they were, to what
21 they thought could be improved.

22 Q So you didn't have like a written script,
23 or outline, or anything?

24 A No. No. No, I don't believe so.

25 Q So, did you ask generally the same

1 questions, or types of questions, to all of the people
2 you talked to?

3 A Generally, yes.

4 I mean, if there was someone -- for
5 instance, we are not going to necessarily ask someone
6 that does asset management the same questions we are
7 going to ask someone who is the Assistant Deputy
8 Controller for information systems.

9 I mean, there are obviously going to be
10 different levels of questions, depending on the areas
11 for which those people oversee, and the significant of
12 that management.

13 So, you know, obviously, there are some
14 more detailed -- you know, we are not going to ask the
15 same person that manages payroll the same questions to
16 the person who is going to be ahead of audit, because,
17 you know, we have a certain level of knowledge about
18 auditing, but the sort of general questions, which I
19 just reviewed, yes, those were consistent.

20 Q And then, at the end of the interview, or
21 the informational session, the person then had an
22 opportunity to ask you and Mr. Schmotzer questions; is
23 that correct?

24 A I believe so. Certainly, we wouldn't have
25 rejected that. I am not -- I can't remember that, if

1 that was part of our -- you know, our standard, like,
2 "Do you have any questions?" I think so, but I can't
3 remember.

4 Q But that doesn't stick out in your mind, as
5 a significant part of these informational sessions,
6 was being asked questions by the --

7 A Correct.

8 Q -- other people? Okay.

9 Was it you and Mr. Schmotzer at every one
10 of these informational sessions?

11 A I recall, yes. That's true.

12 Q Okay. And just the two of you?

13 A Yes.

14 Q And did you meet with Carmen Cupelli during
15 these?

16 A Yes.

17 Q And, do you remember anything about that
18 meeting?

19 A Yes. I mean, I remember it being brief, I
20 remember that he was one of the few people who brought
21 a list of duties that he performed; I remember that
22 there was -- it was -- I would say it was, like I say,
23 describe it as awkward.

24 Q Okay. You said it was brief. Do you
25 recall approximately how long it was?

1 A Approximately, I would say maybe
2 20 minutes; 15, 20 minutes.

3 Q And was that shorter than most of the
4 meetings that you had?

5 A I would say yes.

6 Q How long were most of them?

7 A Well, I guess that was sort of average for
8 some, and some of them were about a half hour, some
9 were about 15 minutes, so --

10 Q But on the shorter side of it?

11 A Correct.

12 Q Okay. And he brought a list with him of
13 what he did?

14 A Correct.

15 Q And did you keep a copy of that list?

16 A I did not. I was not provided a copy.

17 Q But he had it in front of him, to review
18 what he did?

19 A Correct.

20 And I recall him reading it word for word
21 from -- I could see the list on the front table, I
22 could see him reading off of it.

23 Q Okay. And do you remember what he told you
24 he did?

25 A A lot of different things related to real

1 estate; that he attended meetings for the Controller,
2 and that he did special projects, and helped Mark in
3 other ways.

4 There wasn't necessarily a definition to
5 "other."

6 Q Okay. Did you ask?

7 A I don't believe so.

8 Q And you described the meeting as awkward.
9 What was awkward about it?

10 A I mean, the -- first of all, no one else
11 came in with a list, to sort of read off what they did
12 word for word.

13 Other people could sort of recall a day's
14 work sort of off the top of their head, and then would
15 sort of get into more detail on specific duties that
16 they performed.

17 This was very brief, it was sort of just
18 a -- in reading off of sort of bulleted list of sort
19 of brief phrases, or duties.

20 And then, the follow up was sort of, I
21 would say, I guess, defensive a bit, and sort of
22 awkward, because of the defensive nature of it.

23 It seemed to not only be questioning more
24 on his duties, and I can remember sort of the
25 interview sort of coming to a halt, and after we sort

1 of trying to follow up, and not really getting much
2 information back.

3 Q So, I mean, in what way was he defensive?

4 A I -- I can't recall the exact conversation,
5 it's obviously been some time since it happened, and
6 we also conducted somewhere around 30 of these
7 interviews.

8 But, I can remember, distinctly, it just --
9 you know, after reading off the list, that when we
10 tried to follow up on certain things -- because,
11 I will be honest, I had done almost a year's worth of
12 research on the Controller's Office, and I had never
13 once seen a media report, or a -- an -- you know, a
14 produced report from the office that related to tax
15 liens, or real estate investigations.

16 So I was curious, you know, what exactly
17 that meant, and how that would -- and there was little
18 detail provided beyond what was on the list.

19 Q And you mentioned a few times that you did
20 research for about a year before -- beforehand. What
21 did you do to do that research?

22 A I looked at the Controller's website, I
23 went through reports that were publicly available --
24 excuse me -- and then, relied almost solely on news
25 reports.

1 So we had access to, you know, different
2 archives of news reports from, you know, like the last
3 decade or so, and were able to compile different issue
4 based sort of knowledge about what had been made
5 public, about what had been done by the Controllers
6 from audits, to different special reports that they
7 had done, and other advocacy by Controllers.

8 Q When you are talking about news reports,
9 are you talking about, what, the Post-Gazette and the
10 Tribune-Review articles?

11 A Yes. And then some TV, and -- yeah, mainly
12 TV and print media.

13 Q Okay. And, did you take a look at the
14 statute of what the Controller, the Controller's
15 duties are?

16 A Yes. I mean, I reviewed them generally, I
17 would say at that point.

18 Q Okay. And you hadn't really come across
19 anything having to do with tax liens, in conducting
20 that research?

21 A No.

22 The only thing I knew at that point about
23 tax liens, is that they had outsourced -- sold off --
24 the treasurer's office was charged with selling --
25 with maintaining tax liens, and they had at some

1 Q What was her position on that campaign?

2 A She was an administrative assistant.

3 Q All right.

4 MS. ELZER: I don't have any further
5 questions for you.

6 THE WITNESS: Okay.

7 MS. ELZER: Did you have any, Jim?

8 MR. McGRAW: Yeah, just a few.

9 EXAMINATION

10 BY MR. McGRAW:

11 Q J.J., I just wanted to clarify just a
12 couple of things you testified to here.

13 We heard towards the beginning of your
14 testimony, about the first time that you were
15 approached by Chelsa, as you discussed with Chelsa the
16 possibility of you working in the Controller's Office,
17 you said it was on the Turnpike --

18 A Right.

19 Q -- having lunch, or having dinner,
20 something like that.

21 To clarify it, prior to that, while you
22 were working on the campaign, you were not promised a
23 job, nor did you really discuss a job in the
24 Controller's Office with Chelsa; is that correct?

25 A Correct. I would also clarify that I did

1 you met with, that this in fact was not them
2 interviewing for their job; did you attempt to allay
3 any fear?

4 A Correct. I would say, I recall almost, I
5 would say every interview, that was sort of a preface
6 before the meeting started, just sort of make people
7 more comfortable, and it really was sort of
8 information gathering, and that was, you know, a key,
9 I think, to making it more relaxed.

10 Q You had testified that Mr. Cupelli, during
11 that interview, that he had some difficulty, I think
12 the way you said it was, just describing his average
13 day at work. I'm paraphrasing what you testified to
14 earlier.

15 A I would say that's correct.

16 Q Something like that.

17 Was that explanation prompted by, did you
18 ask him that question directly, "Take me through an
19 average day," was that something, a question that you
20 posed to him?

21 A That was a common question within the --
22 everybody, but I can't recall if that was exactly --
23 if that was in the interview, or if it was stated
24 differently, but in each one of the meetings that we
25 had, we tried to get a sense of what people did on a

1 day-to-day basis, and sort of a general sense.

2 Q That was a description you solicited from
3 every interviewee, then?

4 A I believe so, yes.

5 Q You used an example, when you were
6 testifying, with regard to Marcellus Shale, it was in
7 the context, as I recall, correct me if I am wrong, of
8 a function that was a point of emphasis of the
9 Flaherty administration --

10 A Correct.

11 Q -- that had been, I suppose, deemphasized
12 under Miss Wagner's administration; is that fair to
13 say?

14 A Yeah, I would say eliminated. I mean, I
15 think, you know, I can probably give you some other
16 examples, too. I mean, I would list, for instance,
17 there was a lot of, you know, day-to-day work done
18 around constables, which was actually the
19 responsibility of the Department of Court Records, and
20 we went through an entire period of basically
21 transitioning out that duty, because it wasn't our
22 fiduciary duty, nor was it a priority of the
23 Controller.

24 Q Would -- as far as you could tell, would
25 any work related to sheriff's sales also have been

1 perhaps an area emphasized under Controller Flaherty,
2 from any of your investigations?

3 A Correct. Our -- you know, our -- I would
4 say along with Marcellus Shale, constables, I put
5 sheriff's sales in that category, were essentially
6 duplicative. These were efforts that were being done
7 by other row offices, or parts of the administration,
8 the executives administration that we didn't -- did
9 not see a need, nor a desire to continue.

10 Q Does anyone handle, or do any work related
11 to sheriff's sales in the Controller's Office now,
12 that you are aware of?

13 A No, I have never had a discussion about
14 sheriff's sales, although I did read in the paper
15 today they have been decreased over time by the
16 sheriff, yes.

17 Q You are not aware of anybody attending
18 sheriff's sales on behalf of the Controller's Office
19 currently, are you?

20 A Never, no.

21 Q You never read any reports related to what
22 went on at the most recent sheriff's sale; do you?

23 A No.

24 Q Do you know anyone in the office who would
25 receive or review such a report?

1 A No.

2 Q Can you think of any information that might
3 be generated from a sheriff's sale, that might be
4 valuable to anyone working in the Controller's Office
5 right now?

6 A No. I mean, I think if we wanted to do
7 something about sheriff's sale, we would conduct an
8 audit, which would be performed by the auditing
9 department at the direction of the Controller, or the
10 Deputy Controller, or the Assistant Deputy Controller
11 for auditing.

12 But as of my knowledge, or I have never
13 been privy to a discussion of that being any sort of
14 priority, or fiduciary function.

15 Q You were asked about a number of employees,
16 of current and former, by Miss Elzer, during the
17 course of your testimony.

18 Sherry Kelly's name came up a number of
19 times.

20 A Correct.

21 Q To be clear, you had spoken with Guy Tumolo
22 about a number of employees in the Controller's
23 Office, when you were transitioning in; is that
24 correct?

25 A Correct.

1 Q With respect to Miss Kelly, you said that
2 it was indicated to you that she was primarily an
3 administrative assistant; is that correct?

4 A Yes. Her primary responsibility was
5 related to weights and measures, in terms of basically
6 being an administrative officer of sorts for the three
7 employees that spent the majority of time in the field
8 inspecting gas pumps, deli scales, and parking meters.

9 Q Might that, your understanding of what
10 Miss Kelly did in the office, from discussions with
11 Mr. Tumolo -- was there anyone else that you spoke to
12 about Mr. Miss Kelly; was it primarily Mr. Tumolo?

13 A We did speak with -- we did interview, you
14 will note on Exhibit 1 -- let's see the names, I need
15 to find them -- Greg Medica, and Frank Pollock, who
16 were the weights and measures -- heads of, in charge
17 of weights and measures, and they -- they, you know,
18 confirmed that Miss Kelly's four duties were
19 primarily -- you know, they did their work in the
20 field, and then transmitted that information to
21 Mrs. Kelly -- Miss Kelly.

22 Q Might that have been a reason, then, you
23 didn't feel you needed to conduct one of these
24 interviews, that we heard about, with Miss Kelly
25 specifically?